

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Promote Policy and Program Coordination and Integration in Electric Utility Resource Planning.

Rulemaking 04-04-003
(Filed April 1, 2004)

Order Instituting Rulemaking to Promote Consistency in Methodology and Input Assumptions in Commission Applications of Short-run and Long-run Avoided Costs, Including Pricing for Qualifying Facilities.

Rulemaking 04-04-025
(Filed April 22, 2004)

**ASSIGNED COMMISSIONERS' RULING AND SCOPING MEMO
CONSOLIDATING R.04-04-003 AND R.04-04-025 FOR THE LIMITED
PURPOSE OF JOINT EVIDENTIARY HEARINGS ON POLICY AND PRICING
OF QUALIFYING FACILITIES**

Summary

This Assigned Commissioners' Ruling and Scoping Memo (ACR/Scoping Memo) consolidates Rulemaking (R.) 04-04-003 and R.04-04-025 for the limited purpose of joint evidentiary hearings (EHs) on policy and pricing of Qualifying Facilities¹ (QFs). EHs are scheduled for May 2 – 20, 2005, concurrent opening testimony is due March 30, 2005, and concurrent rebuttal testimony is due

¹ Qualifying facilities, or QFs, are qualifying non-utility cogeneration and small power producing facilities under the Public Utility Regulatory Policies Act (PURPA) of 1978 that sell electric power to a host utility at the host utility's avoided cost rate.

April 20, 2005. Parties are to follow a joint outline in the presentation of the testimony so the policy and pricing issues are clearly delineated.

This ACR/Scoping Memo also confirms the category of the proceeding and the need for evidentiary hearings and designates the principal hearing officer.

Background

R.04-04-003 identified six distinct issues that would be considered in the proceeding. Two of these issues – review and adoption of the Investor Owned Utilities' (IOU) long-term procurement plans (LTPP) and resource adequacy (RA) – have been addressed in separate phases of the proceeding and to date have resulted in D.04-10-035 [RA] and D.04-12-048 [LTPP]. Development of a long-term policy for handling expiring QF contracts is the next issue to be addressed in this proceeding.

The current Commission policy for expiring QF contracts was adopted in D.03-12-062 and modified and extended in D. 04-01-050. This policy is interim in nature and addresses only those QFs whose contracts have expired or are set to expire before January 1, 2006. In addition to addressing expiring QF contracts, the Commission also wants to look at long-term procurement policies for new QF contracts.

By a September 30, 2004 Administrative Law Judge's (ALJ) Ruling, parties were directed to file proposals for a long-term policy for expiring QF contracts and new QF contracts by November 10, 2004, and comments on the proposals by November 24, 2004. Parties were asked to specify how their proposals met the test established in D.04-01-050 of assuring fairness to the QF community as well as to the IOUs and their ratepayers.

On April 22, 2004, the Commission initiated R.04-04-025 preliminarily setting forth that the scope of the rulemaking would include a forum for developing a common methodology, consistent input assumptions and updating procedures for avoided costs across various Commission proceedings, including Commission review of avoided costs for purposes of QF pricing.

Therefore, the Commission intended to develop a long-term policy for QFs in R.04-04-003 pursuant to an accelerated schedule to allow for a decision by early third quarter and then follow with a decision in R.04-04-025 that determined avoided costs for the QFs.

On January 4, 2005, an ACR/Scoping Ruling in R.04-04-025 separated the issues to be addressed in R.04-04-025 into three phases. Phase 2 of the R.04-04-025 was to resolve short-run avoided cost (SRAC) pricing issues while Phase 3 would address long-run avoided cost forecasts and calculations and the potential use of the E3 avoided cost methodology to calculate long-run avoided cost for use in valuing other resource options and programs.² On January 4, 2005, pursuant to the ACR/Scoping Memo issued in R.04-04-025 and an ALJ ruling in R.04-04-003, a joint Prehearing Conference (PHC) was set for January 24, 2005, for both rulemakings. After reviewing the comments from the parties at the PHC and upon further consideration of the interrelationship between pricing and policy, it is determined that in order to avoid unnecessary duplication of testimony and parties' time and effort, the two rulemakings will

² Phase 1 of R.04-04-025 will consider the applicability of the E3 Research Report entitled *Methodology and Forecast of Long-Term Avoided Cost(s) for the Evaluation of California Energy Efficiency Programs*, dated October 25, 2004, for the energy efficiency 2006-2008 program cycle.

be consolidated for purposes of testimony and EHs on QF policy and pricing issues.

This ruling modifies the January 4, 2005 Scoping Ruling in R.04-04-025 such that all QF pricing issues will be addressed in Phase 2. Phase 3 of R.04-04-025 will continue to focus on the development of a common methodology, consistent input assumptions and updating procedures to quantify all elements of long-run avoided cost across the various Commission proceedings. A schedule for Phase 3 of R.04-04-025 will be established following the release of the proposed decision on the consolidated QF policy and pricing issues.

Schedule

Concurrent Testimony	March 30, 2005
Concurrent Rebuttal	April 20, 2005
Evidentiary Hearings	May 2 – 20, 2005
	Commission Hearing Room
	505 Van Ness Avenue
	State Office Building
	San Francisco, CA 94102

A schedule for the filing of post-hearing opening and reply briefs will be determined by the close of the EHs.

Joint Outline for Testimony and Post-Hearing Briefs

The IOUs are directed to coordinate the preparation of a joint outline for use in the preparation of testimony and post-hearing briefs. The focus of the outline should be on the delineation between subjects that are appropriate to the policy decision and those that relate to pricing and technical issues. The outline should also inform the parties as to the order of witnesses and the timing of cross-examination. The outline should be circulated to all parties and the ALJ no later than March 4, 2005 for additional input and/or concurrence. If there is

disagreement among the parties as to topics that should be within the scope of the EHs, please alert the assigned ALJs,³ and a determination will be made. It is anticipated that with the consolidation of the two proceedings for EH purposes, all topics that are properly within the scope of both the policy and the pricing rulemakings can be efficiently and thoroughly vetted.

Service List

Separate service lists for R.04-04-025 and the QF Phase of R.04-04-003 are now on the Commission's web page, www.cpuc.ca.gov. These two lists will be consolidated for purposes of the joint evidentiary hearings on QF policy and pricing issues. Parties should confirm that the information on the consolidated service list is correct, and serve notice of any errors on the Commission's Process Office, the service list, and the judge. Parties should frequently check the official service list to ensure that they are operating with the most current list. Parties shall e-mail courtesy copies of all served and filed documents on the entire service list, including those appearing on the list as "State Service" and "Information Only."

Hearing Preparation

Hearings are scheduled for May 2 - 20, 2005. On or before Friday, April 29, 2005, parties should conduct a meet-and-confer to discuss witness schedules, time estimates from each party for the cross-examination of witnesses,

³ R.04-04-003, Carol A. Brown cab@cpuc.ca.gov; R.04-04-025, Julie M. Halligan jmh@cpcu.ca.gov

scheduling concerns, and the order of cross-examination.⁴ The first morning of hearings on May 2, 2005, will begin at 10:00 a.m., but the time may be adjusted on subsequent days according to the participants' needs.

Finally, the parties should comply with the Hearing Room Ground Rules set forth in Appendix A hereto.

IT IS RULED that:

1. The scope of the proceeding is as set forth herein.
2. The schedule for this proceeding is set forth herein.
3. Parties shall follow the service list rules as set forth herein.
4. Parties shall comply with the Hearing Room Ground Rules set forth in Appendix "A" hereto.

Dated February 18, 2005, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey
Assigned Commissioner

/s/ SUSAN P. KENNEDY

⁴ The May 6, 2005 meet and confer will replace the April 27, 2005 PHC scheduled in the January 4, 2005 Scoping Ruling in R.04-04-025. The April 27, 2005 PHC will be taken off the calendar.

R.04-04-003, R.04-04-025 MP1/SK1/JMH/CAB/sid

Susan P. Kennedy
Assigned Commissioner

APPENDIX A

Hearing Room Ground Rules

1. All prepared written testimony should be served on all appearances and state service on the service list, as well as on the Assigned Commissioner's office and on the Assigned ALJ. Prepared written testimony shall not be filed with the Commission's Docket Office.
2. Each party sponsoring an exhibit should, in the hearing room, provide two copies to the ALJ and one to the court reporter, and have copies available for distribution to parties present in the hearing room. (Present estimate: five copies.) The upper right hand corner of the exhibit cover sheet should be blank for the ALJ's exhibit stamp. If there is not sufficient room in the upper right hand corner for an exhibit stamp, please prepare a cover sheet for the exhibit. Parties should pre-mark exhibits when feasible.
3. As a general rule, if a party intends to introduce an exhibit in the course of cross-examination, the party should provide a copy of the exhibit to the witness and the witness' counsel before the witness takes the stand on the day the exhibit is to be introduced. Generally, a party is not required to give the witness an advance copy of the document if it is to be used for purposes of impeachment or to obtain the witness' spontaneous reaction.
4. Generally, corrections to an exhibit should be made in advance and not orally from the witness stand. Corrections should be made in a timely manner by providing new exhibit pages on which corrections appear. The original text to be deleted should be lined out with the substitute or added text shown above or inserted. Each correction page should be marked with the word "revised" and the revision date.
5. Individual chapters of large, bound volumes of testimony may be marked with separate exhibit numbers, as convenient.
6. Partial documents or excerpts from documents must include a title page or first page from the source document; excerpts from lengthy documents should include a table of contents page covering the excerpted material.
7. Motions to strike prepared testimony must be made at least two working days before the witness appears, to allow the ALJ time for review of the arguments and relevant testimony.

8. Notices, compliance filings, or other documents may be marked as reference items. They need not be served on all parties. Items will be marked using letters, not numbers.
9. Food and beverages are allowed IF you dispose of containers and napkins properly.

(END OF APPENDIX A)

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Assigned Commissioners' Ruling and Scoping Memo Consolidating R.04-04-003 and R.04-04-025 for the Limited Purpose of Joint Evidentiary Hearings on Policy and Pricing of Qualifying Facilities on all parties of record in this proceeding or their attorneys of record.

Dated February 18, 2005, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TTY# 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.

R.04-04-003, R.04-04-025 MP1/SK1/JMH/CAB/sid